

REMARKS/ARGUMENTS

The office action of June 24, 2005 has been carefully reviewed and these remarks are responsive thereto. Claims 1-58 are pending. Claims 1-12 and 16-58 have been allowed. Claims 13-15 stand rejected. Applicants herein amend claim 13. No new matter has been introduced. Reconsideration and allowance are respectfully requested.

Applicants acknowledge with thanks the allowance of claims 1-12 and 16-58.

The office action rejected claims 13-15 under 35 U.S.C. § 101 as drawn to a mathematical algorithm per se, stating that a process consisting solely of mathematical operations without some claimed practical application is drawn to non-statutory subject matter.¹ However, the § 101 rejections are moot in view of the amendments to claim 13 made herein. In particular, claim 13 recites a modified discrete cosine transform coefficient extractor for obtaining transform coefficients from an audio bitstream. Claim 13 further recites that the coefficient extractor provides input to the at least one band feature value analyzer, which in turn provides input to the confidence store calculator. The confidence score calculator calculates a confidence score for beat candidates, and the converging and storage unit combines two or more of those beat candidates. This is not a mere manipulation of abstract mathematical values, but is instead a device that performs operations upon data having physical meaning.

The office action also rejected claim 13 under 35 U.S.C. § 102(e) based on U.S. Patent 6,807,526 (Touimi et al., hereinafter Touimi). However, Touimi does not teach a confidence score calculator as recited in claim 13. Specifically, Touimi does not teach a confidence score calculator that calculates a confidence score for beat candidates using stored values of previous inter-onset intervals. Touimi similarly fails to teach a converging and storage unit that combines two or more of those beat candidates.

¹ If the office action is treating claims 13-15 as method claims, Applicants note that these claims are directed to an apparatus.

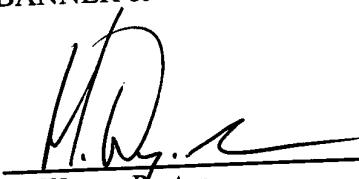
Appln. No.: 09/966,482
Amendment dated: September 13, 2005
Reply to Office Action of June 24, 2005

In view of the above, claims 13-15 are allowable. It is respectfully submitted that this application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,

BANNER & WITCOFF, LTD.

By:


H. Wayne Porter
Reg. No. 42,084

Dated: September 13, 2005

1001 G Street, N.W.
Washington, D.C. 20001-4597
Tel: (202) 824-3000
Fax: (202) 824-3001